

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUIGI GIROTTO,	:	
	:	
Plaintiff,	:	
	:	21-CV-6276 (VSB)
-against-	:	
	:	<u>ORDER</u>
EL POTE ESPANOL, INC. and 720 SECOND,	:	
LLC,	:	
	:	
Defendants.	:	
-----	X	

VERNON S. BRODERICK, United States District Judge:

Plaintiff filed this action on July 23, 2021, (Doc. 1), and filed an affidavit of service for Defendant El Pote Espanol, Inc. on October 1, 2021, showing that Defendant El Pote Espanol, Inc. was served on September 2, 2021, (Doc. 8). The deadline for Defendant El Pote Espanol, Inc. to respond to Plaintiff's complaint was September 23, 2021. (*See* Doc. 8.) To date, Defendant El Pote Espanol, Inc. has not appeared or responded to the complaint.

On March 16, 2022, I ordered Plaintiff to seek a default judgment against Defendant El Pote Espanol, Inc. or otherwise risk dismissal for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). (Doc. 15.) Plaintiff submitted a letter-motion on March 30, 2022, requesting an extension of time until April 29, 2022 to move for default because "he believe[d] and [sic] response from the Defendants is forthcoming." (Doc. 16.) I granted that motion, (Doc. 17), and, on April 29, 2022, Plaintiff moved for a second extension until June 1, 2022, (Doc. 18.) I granted the second extension request, ordered Plaintiff to seek a default judgment by June 1, 2022, and warned that "[f]ailure to do so will result in dismissal of the claims against Defendant El Pote Espanol, Inc. pursuant to Federal Rule of Civil Procedure 41(b)." (Doc. 19.) That deadline has passed, Defendant El Pote Espanol, Inc. has still not filed an appearance or

responded to the complaint, and Plaintiff has not moved for a default judgment. Accordingly, it is hereby:

ORDERED that Defendant El Pote Espanol, Inc. is dismissed from this action pursuant to Federal Rule of Civil Procedure 41(b) based on Plaintiff's failure to prosecute the case against Defendant. The Clerk of Court is respectfully directed to dismiss Defendant El Pote Espanol, Inc. from the action.

SO ORDERED.

Dated: June 2, 2022
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

VERNON S. BRODERICK
United States District Judge